Complaint

Ms T has complained that Loans 2 Go Limited ("L2G") provided her with an unaffordable loan.

Background

L2G provided Ms T with a loan for £300 in March 2019. This loan had an APR of 1,013.3% and an 18-month term. This all meant the total amount repayable of £1,234.26, which included interest, fees and charges of £934.26, was due to be repaid in 18 instalments of £68.57.

One of our adjudicators looked at this complaint and thought that L2G unfairly provided this loan as proportionate checks would have shown it was unaffordable.

L2G disagreed with our adjudicator and asked for an ombudsman to review the complaint.

My findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

We've set out our general approach to complaints about unaffordable/irresponsible lending - including the key rules, guidance and good industry practice - on our website. And I've referred to this when deciding Ms T's complaint.

Having carefully thought about everything, I think that there are two overarching questions that I need to answer in order to fairly and reasonably decide Ms T's complaint. These two questions are:

1. Did L2G complete reasonable and proportionate checks to satisfy itself that Ms T would be able to repay her loan in a sustainable way?
    - If so, did it make a fair lending decision?
    - If not, would those checks have shown that Ms T would've been able to do so?
2. Did L2G act unfairly or unreasonably in some other way?

Did L2G complete reasonable and proportionate checks to satisfy itself that Ms T would be able to repay her loan in a sustainable way?

L2G provided this loan while it was authorised and regulated by the Financial Conduct Authority ("FCA"). The rules and regulations in place required L2G to carry out a reasonable and proportionate assessment of Ms T's ability to make the repayments under these agreements. This assessment is sometimes referred to as an "affordability assessment" or "affordability check".

The checks had to be "borrower" focused – so L2G had to think about whether repaying the loan would cause significant adverse consequences *for Ms T*. In practice this meant that L2G had to ensure that making the payments to the loan wouldn't cause Ms T undue difficulty or adverse consequences.

In other words, it wasn't enough for L2G to simply think about the likelihood of it getting its money back, it had to consider the impact of the loan repayments on Ms T. Checks also had to be "proportionate" to the specific circumstances of the loan application.

In general, what constitutes a proportionate affordability check will be dependent upon a number of factors including – but not limited to – the particular circumstances of the consumer (e.g. their financial history, current situation and outlook, and any indications of vulnerability or financial difficulty) and the amount / type / cost of credit they are seeking. Even for the same customer, a proportionate check could look different for different applications.

In light of this, I think that a reasonable and proportionate check ought generally to have been *more* thorough:

- the *lower* a customer's income (reflecting that it could be more difficult to make any loan repayments to a given loan amount from a lower level of income);

- the *higher* the amount due to be repaid (reflecting that it could be more difficult to meet a higher repayment from a particular level of income);

- the *longer* the term of the loan (reflecting the fact that the total cost of the credit is likely to be greater and the customer is required to make payments for an extended period); and

- the *greater* the number and frequency of loans, and the longer the period of time during which a customer has been given loans (reflecting the risk that repeated refinancing may signal that the borrowing had become, or was becoming, unsustainable).

There may also be other factors which could influence how detailed a proportionate check should've been for a given loan application – including (but not limited to) any indications of borrower vulnerability and any foreseeable changes in future circumstances.

I've carefully thought about all of the relevant factors in this case.

Were L2G's checks reasonable and proportionate?

L2G says that it carried out an income and expenditure assessment with Ms T prior to providing her with her loan. It also carried out credit checks. L2G checks suggested Ms T's income was around to £1,500.00 and her expenditure was just under £1,250.00. This left Ms T with enough to cover the payments to this loan.

I've carefully considered what L2G has said. But L2G's credit checks clearly show that Ms T was significantly indebted, was close to the credit limit on one of her revolving accounts and had a history of regular home collected credit use. Bearing all of this in mind, I think that L2G needed to take further steps to verify Ms T's actual monthly expenditure.

As I can't see that this L2G did do this, I don't think that the checks it carried out before providing Ms T with this loan were reasonable and proportionate.

Would reasonable and proportionate checks have indicated to L2G that Ms T would have been unable to repay her loan?

As reasonable and proportionate checks weren't carried out before this loan was provided, I can't say for sure what they would've shown. So I need to decide whether it is more likely than not that a proportionate check would have told L2G that Ms T would have been unable to sustainably repay this loan.

L2G was required to establish whether Ms T could make her loan repayments without experiencing significant adverse consequences – not just whether the loan payments were technically affordable on a strict pounds and pence calculation.

I've carefully considered the information provided. Having done so, it's clear that Ms T was borrowing further to repay previous loans. Her income was pretty much being used to meet her living costs and commitments to existing creditors. So I think that proportionate checks would more likely than not have shown L2G that Ms T was unlikely to be able to make her payments without borrowing further or suffering significant adverse consequences.

Bearing all of this in mind, I'm satisfied that reasonable and proportionate checks would more likely than not have demonstrated that Ms T would not have been able to make the repayments to this loan without borrowing further and/or suffering undue difficulty. And, in these circumstances, I find that reasonable and proportionate checks would more likely than not have alerted L2G to the fact that Ms T was in no sort of position to make the payments on this loan without suffering significant adverse consequences.

Did L2G act unfairly or unreasonably towards Ms T in some other way?

I've carefully thought about everything provided. And having done so, I've not seen anything to suggest that L2G acted unfairly or unreasonably towards Ms T in some other way. So I don't think L2G acted unfairly or unreasonably towards Ms T in some other way.

Did Ms T lose out as a result of L2G unfairly providing her with these loans?

As Ms T paid a high amount of interest and charges on a loan that she shouldn't have been provided with, I'm satisfied that she has lost out as a result of what L2G did wrong.

So I think that L2G needs to put things right.

Fair compensation – what L2G needs to do to put things right for Ms T

Having thought about everything, I think that L2G should put things right for Ms T by:

- refunding all interest, fees and charges Ms T paid towards this loan;
- adding interest at 8% per year simple on any refunded payments from the date they were made by Ms T to the date of settlement†
- removing any and all adverse information recorded about this loan from Ms T's credit file.

† HM Revenue & Customs requires L2G to take off tax from this interest. L2G must give Ms T a certificate showing how much tax it has taken off if she asks for one.

My final decision

For the reasons I've explained, I'm upholding Ms T's complaint. Loans 2 Go Limited needs to put things right in the way set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 13 October 2023.

Jeshen Narayanan
Ombudsman